

To: envlawprofessors@lists.uoregon.edu[envlawprofessors@lists.uoregon.edu]
From: envlawprofessors-bounces@lists.uoregon.edu
Sent: Mon 8/17/2015 4:34:02 PM
Subject: [Envlawprofessors - UOregon] Animas River update
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ATT00001.txt

Hi all. Returning from a quick trip into Edward Abbey country, I took the opportunity yesterday to drive the length of the Animas River from Durango to its confluence with the San Juan River. Happy to say I didn't see any lingering orange anywhere, and water quality samples indicate all metals have return to "pre-incident" levels. The river is open again to rafting and other recreation now. But none of this is to say that the Animas River, and countless other streams, lakes, and rivers throughout the West, are now healthy.

What has been a healthy development, in my mind, is a break from the rhetoric of last week, demonizing the EPA as if mining contamination never existed in the watershed until two weeks ago. Indicative of the change in rhetoric this week are the two articles available at the links below, from the front pages of yesterday's Denver Post and Durango Herald.

<http://www.durangoherald.com/article/20150815/NEWS01/150819722/What-will-it-take-to-get-Superfund-status-in-Silverton?>

http://www.denverpost.com/environment/ci_28647978/colorado-faces-230-mines-leaking-heavy-metals-into?source=pkg

From the Denver Post article, we learn that the volume of contaminated mine water discharging continually within the State of Colorado "equals at least one Gold King disaster every two days...."

And from the Durango Herald, this:

Asked how the stigma of a Superfund designation could

possibly injure Silverton more than the stigma attached to being the tiny town that for decades defied the EPA's pleading only to bestow millions of gallons of heavily polluted mine wastewater on downstream communities through Colorado, New Mexico and Utah, [Silverton spokesman Anthony] Edwards said, "I don't know how to answer that."

Cliff

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From: envlawprofessors-bounces@lists.uoregon.edu [mailto:envlawprofessors-bounces@lists.uoregon.edu] **On Behalf Of** Joseph Dellapenna
Sent: Saturday, August 15, 2015 2:28 PM
To: Cheever, Fred; Joel Mintz; envlawprofessors@lists.uoregon.edu
Subject: Re: [Envlawprofessors - UOregon] Animas River spill

So why hasn't the message reached the public? I suppose more people watch Fox News, CNN, etc., than read the Bloomberg-BNA Environment Reporter or sit through a two-hour comment period. Nor does it seem to me that announcing that the EPA will hold itself to the same standards as are applied to anyone else shift the focus from the EPA to the real culprits.

Joe

-----Original Message-----

From: envlawprofessors-bounces@lists.uoregon.edu [mailto:envlawprofessors-bounces@lists.uoregon.edu] On Behalf Of Cheever, Fred
Sent: Saturday, August 15, 2015 1:10 PM
To: Joel Mintz; envlawprofessors@lists.uoregon.edu
Subject: Re: [Envlawprofessors - UOregon] Animas River spill

-----Original Message-----

From: envlawprofessors-bounces@lists.uoregon.edu [mailto:envlawprofessors-bounces@lists.uoregon.edu] On Behalf Of Joel Mintz

Sent: Friday, August 14, 2015 3:27 PM

To: envlawprofessors@lists.uoregon.edu

Subject: Re: [Envlawprofessors - UOregon] Animas River spill

You're correct, about that, Craig. In addition to McCarthy's recent visit out West, the Regional Administrator of EPA's Denver-based Region 8, Shaun McGrath, held a two hour public comment session in Durango, CO last weekend. At that gathering, McGrath reportedly told an (understandably irate) group of local residents and small business people that EPA will conduct a full cleanup operation and "[We will] hold ourselves to the same standards that we would anyone that would have created this situation."

Joel

-----Original Message-----

From: envlawprofessors-bounces@lists.uoregon.edu [<mailto:envlawprofessors-bounces@lists.uoregon.edu>] On Behalf Of Craig Oren

Sent: Friday, August 14, 2015 4:09 PM

To: Kornfeld Itzhak <kornfeld.itzhak@mail.huji.ac.il>

Cc: envlawprofessors@lists.uoregon.edu

Subject: Re: [Envlawprofessors - UOregon] Animas River spill

I don't think it's true that EPA has remained silent. Administrator McCarthy has spoken out on the situation. See the August 14 issue of Environment Reporter (BNA).

Craig

On Fri, 14 Aug 2015, Kornfeld Itzhak wrote:

> Tim:

>

> The problem for EPA is that has remained silent. Where is

> Administrator McCarthy? They should be feeding the news media. like

> one feeds a dog treats - and I do not mean the example to be

> condescending. EPA ought to be taking state and local officials on tours and have the media in tow.

>

> But, when one remains silent they have nothing to complain about, if

> as the Agency is doing here, it's getting beat up.

>

> I also agree with you regarding the the point that Zyg raises. One

> more point, I have not see the name of the contractor, does anyone

> know who it is?

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> Best to all.

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> Itzhak

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> <<http://ssrn.com/author=96427>>*

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> On Fri, Aug 14, 2015 at 2:35 PM, Tim Duane <tpduane@ucsc.edu> wrote:

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>> Zyg,

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>> This is a great point. I've also been struck by how both the

>> citizenry and the media have focused on attacking EPA for its

>> contractors' mistakes and generally not talked about this disaster as

>> a predictable consequence of the original mining activity and how

>> liability for the disaster is ultimately traceable to nonexistent regulation of those activities.

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>> Best,

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>> Tim

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>> SSRN: http://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=1247685

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>> On Aug 14, 2015, at 10:31 AM, Zygmunt Plater <plater@bc.edu> wrote:

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>> I don't know the data, but a possible angle on this Animas River

>> pollution story that has not to my knowledge been noted in media

>> coverage comes from Jared Diamond's book "Collapse." In the first

>> part, "Modern Montana," he avers that the vast cost of repairing the

>> West's mined lands and waters--virtually all being restored at

>> taxpayer expense--greatly exceeds in constant dollars the total

>> revenues harvested from those mined lands by private industry over

>> the years. If that fact is indeed backed up by the data (PERC has

>> attacked the book but presents no pertinent evidence on the

>> point) it could provide a very good teaching moment backdrop to the

>> current Animas River coverage, much of it castigating EPA restoration efforts.

>> Those past substantial mining revenues and their related devastations

>> of the mostly-federal lands came, of course, in an historical

>> opportunity-cost context; it was a time when those Western states

>> desperately needed cash flow and economic multipliers to develop. But

>> all national policy analysis needs to acknowledge and include an

>> accounting for subsequent public consequences as well as front-end private profits.

>>

>> If anyone knows more about this overview calculation, could you pass

>> it on to an intelligent journalist, as well as to the list?

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>> Good wishes.

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>> ZP

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>> *Zygmunt J.B. PlaterBoston College Law School885 Centre StreetNewton

>> Centre MA 02459617-552-4387 <617-552-4387>plater@bc.edu

>> <plater@bc.edu>*

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>> *—The Snail Darter & the Dam**—*

>>

>> **Yale University Press,

>> *now in paperback*

>> *...a very small endangered fish's travels through the corridors of

>> American power*

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>> On Thu, Aug 13, 2015 at 1:10 PM, Villa, Clifford <villa@law.unm.edu>

>> wrote:

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>>> For any of you following the horrific spill of mine contamination

>>> into the Animas River last week, with impacts on four SW states, the

>>> Navajo Nation, and many other places and people, you may be

>>> interested in the op-ed piece published today in the Albuquerque

>>> Journal and available at the link below.

>>>

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>>> Naturally, there is so much more to say here, but while the

>>> emergency operations remain in full swing, the op-ed today is a

>>> start. If any related questions, please feel free to reply to me

>>> offline (at my new UNM email address).

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>>> <http://www.abqjournal.com/627504/opinion/clearing-up-questions-on-river-spill.html>

>>> ver-spill.html

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>>> Best Regards,

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You can access my SSRN articles at <http://ssrn.com/author=39319>.
